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SPECIFIC GROUPS AND INDIVIDUALS

Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 January 1999]

GE.99-10674 (E)

1. Refugees, internally displaced persons and asylum seekers are some of the groups most vulnerable to human rights abuse. In 1998, UNHCR estimated that there were a total of 50 million refugees and internally displaced persons in the world. Meanwhile xenophobia and anti-immigrant sentiments prompted States to close their doors to those forced to flee their homes. Refugee protection could not always be guaranteed even within countries of asylum. The militarization of refugee camps; cross-border attacks and incursions; the forced conscription and abduction of children into armed forces; sexual and domestic violence against women; and forcible round-ups of refugees were some of the protection problems that Human Rights Watch documented over the past year.

The right to asylum

2. In the year of international celebration of the fiftieth anniversary of the Universal Declaration of Human Rights, the fundamental right "to seek and enjoy in other countries asylum from persecution" was denied to large numbers of people across the globe. Nowhere was this trend more apparent than in Western Europe, where efforts to harmonize European asylum policy led to a barrage of restrictive practices. "In-country" strategies such as "safe havens" and "internal flight alternatives" were used to contain refugee flows, with little regard as to whether they offered meaningful protection. States continued to apply "safe third country" and "safe country of origin" policies coupled with accelerated procedures and limited rights of appeal designed to limit their obligations to asylum seekers. Carrier sanctions, visa restrictions and detention were used to deter asylum seekers and penalize the act of seeking asylum. Restrictive interpretations of the 1951 Convention deprived deserving refugees of needed international protection. The disturbing trend, endorsed by the Government of Austria in its role as president of the European Union in 1998, to substitute lesser forms of temporary protection for full Convention refugee status continued. Human Rights Watch calls on European States to uphold their international obligations and provide full refugee protection to those fleeing persecution.

Detention of asylum seekers

3. In industrialized and developing countries alike, asylum seekers are frequently detained, sometimes arbitrarily and indefinitely, or without the right to judicial review. The detention of asylum seekers frequently obstructs access to necessary legal assistance and information. Detaining asylum seekers - many of whom may have escaped from arbitrary imprisonment, torture and other ill-treatment - can have a serious impact on mental health. Incarceration in often inhumane conditions alongside criminals, prolonged confinement in prisons or prison-like conditions and severe restrictions on freedom of movement are entirely inappropriate treatment for asylum seekers and may violate international standards.

4. As a general rule, asylum seekers should not be detained. Such detention can be justified only when strictly necessary, on a case-by-case basis. In all cases, meaningful alternatives to detention should be utilized. Conditions of detention should always reflect the non-accused, non-criminal

status of asylum seekers and should be humane and in accordance with international standards. Unaccompanied minors seeking asylum should never be detained.

5. Human Rights Watch has found that the Immigration and Naturalization Service (INS) of the United States of America has failed to ensure that basic national and international standards are met in local jails, where it housed more than half of its 16,000 detainees in 1998. Human Rights Watch documented physical abuse by jail staff, sub-standard medical and dental care, and severely curtailed access to family, friends and legal representatives. Following the release of those findings in September 1998, INS began to include some minimal standards in its contracts with local jails. Even these limited standards are unenforceable, as INS is unable to monitor compliance.

6. At any one time, approximately 200 to 500 immigration detainees are unaccompanied minors placed in the custody of INS. INS faces a serious conflict of interest in assuming responsibility for the care and protection of the same children it is seeking to deport and remove from the United States. As many as one third of these children are held in secure detention facilities, where they may be commingled with juveniles detained for violent acts of delinquency. Too often, children in INS custody do not receive adequate legal information or representation, may be denied an education in a language they understand and may be transferred without the knowledge of their families or attorneys.

Growing xenophobia

7. In Africa, despite a long and generous tradition of asylum, rising xenophobia, economic strain, environmental degradation and threats to national and regional security caused by militia elements among refugee populations have prompted States, such as Kenya, South Africa and Tanzania, to introduce restrictive policies which severely undermine the protection of many refugees. Historically one of the most welcoming refugee hosts, the Government of Tanzania rounded up thousands of foreigners living in western Tanzania in late 1997 on security grounds and forced them into refugee camps. This group included several thousand Burundian refugees who came to Tanzania in the 1970s. Human Rights Watch condemns the forcible round-ups and calls on the Government of Tanzania to seek alternative arrangements to secure its border.

Refoulement

8. Many States continue to violate the fundamental principle of non-refoulement. In 1997, for example, Human Rights Watch protested a series of often violent forcible returns of thousands of Burmese refugees from Thailand to border areas of Burma, where many of them were vulnerable to human rights abuse. Human Rights Watch remains concerned that in the absence of effective refugee status determination procedures in Thailand, efforts to expel undocumented migrants could result in the forcible return of those with a well-founded fear of persecution in Burma. Human Rights Watch calls on Thailand to cease the refoulement of any refugees with a well-founded fear of persecution in Burma, to keep its borders open and to ensure safe asylum to all refugees fleeing human rights abuses in Burma.

9. In March 1998, the round-up, detention, and deportation of tens of thousands of illegal migrants in Malaysia resulted in the forcible return to Indonesia of some 500 Achenese, many of whom had valid fears of persecution and ill-treatment in Indonesia. Human Rights Watch calls on the Government of Malaysia to allow UNHCR access to the immigration detention camps to conduct refugee status determination screening and to cease the deportation of those with a well-founded fear of persecution in Indonesia.

Violence against women

10. Women constitute a large proportion of many refugee populations and are particularly at risk in refugee camps. In Tanzania, for example, Human Rights Watch documented high rates of sexual and domestic violence against Burundian women refugees, perpetrated for the most part by other refugees, local residents and at times by local police officers. UNHCR protection officers and the Tanzanian authorities did not adequately address sexual and domestic violence as serious protection problems. Following negative international attention, UNHCR has belatedly begun to take some preliminary steps to prevent and address sexual violence in these camps. Human Rights Watch urges UNHCR to implement fully existing UNHCR guidelines on the protection of refugee women and prevention of sexual violence, and to develop guidelines to prevent and respond to domestic violence. It calls on the Government of Tanzania to take steps to ensure that the perpetrators of sexual and domestic violence against refugee women are brought to justice.

Internal displacement

11. Worldwide there are an estimated 30 million internally displaced people. The largest internally displaced population in the world is in the Sudan, where an estimated 4 million people are displaced. The Government of the Sudan continued, for the tenth year, to deny access to the 400,000 internally displaced and other needy persons living in the rebel areas of the central Nuba Mountains. Access of humanitarian relief was also barred to some 350,000 displaced people in the southern region of Bahr El Ghazal in February and March 1998. Human Rights Watch urges the Government of the Sudan to immediately provide humanitarian access to the rebel areas of the Nuba Mountains, Bahr El Gazal and Eastern Equatoria.

12. In Colombia an estimated 240,000 people were displaced by political violence during 1998, bringing the total number of displaced to 1.2 million. The displaced continued to be the targets of threats, harassment and attacks by all parties to the conflict, particularly by the paramilitary groups that continue to enjoy the tacit or open support of the Colombian military. Human Rights Watch calls on the Government of Colombia to take steps to ensure the safety of all returnees. Displaced persons should not be forced to return to areas where their safety cannot be guaranteed. It also urges the Government to provide adequate humanitarian assistance to all displaced persons and returnees.

Mass expulsions

13. Human Rights Watch is concerned about reports of mass expulsions on the basis of nationality and ethnicity from Ethiopia and Eritrea since a border dispute between the two countries in May 1998. By early January 1999, Ethiopia had reportedly rounded up, detained and expelled to Eritrea some 45,000 Eritreans and Ethiopians of Eritrean origin. There have also been claims that an estimated 35,000 Ethiopians were deported from Eritrea during the same period. Human Rights Watch calls on the Governments of Ethiopia and Eritrea to protect their civilian population and to cease immediately these deportations and accompanying violations of the rights of deportees, which violate international human rights and humanitarian law.